

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

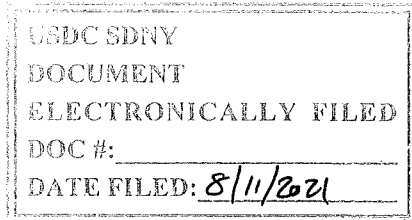
KIMBERLY SMITH,

Plaintiff,

-against-

PAROLE OFFICER ROBERT B.  
ROSENBERGER, individually; PAROLE  
OFFICER MICHAEL P. KENNY, individually;  
JOHN GEMMATI, Hudson Valley Regional  
Director; JOHN LENARD HOME, Hudson  
Valley Assistant Regional Director; JOHN J.  
CUEVAS, Peekskill Area Bureau Chief; and  
JACK AND JILL DOES I-X,

Defendants.



20-CV-1274 (VB)

**SECOND AMENDED  
ORDER OF SERVICE**

VINCENT L. BRICCETTI, United States District Judge:

Plaintiff brings this action under 28 U.S.C. §§ 1343 and 1983 alleging defendants violated certain of her constitutional rights. By Order dated May 18, 2020, the Court granted plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis* ("IFP").

On April 27, 2021, the Court issued an Amended Order of Service directing the Clerk of Court to issue summons for several defendants and to deliver to the U.S. Marshals Service all paperwork necessary for the Marshals to effect service on those defendants. (Doc. #124). These defendants included "John Lenard Home," and "John J. Cuevas," both of whom were named in plaintiff's Second Amended Complaint, which was filed on February 5, 2021. (*Id.*; Doc. #109).

Since the Court issued the Amended Order of Service, the Marshals Service has docketed executed Process Receipts and Returns of Service for two of the defendants named in that Order. (Docs. ##127, 128). However, the Marshals Service docketed an unexecuted Process Receipt and Return of Service for defendant "John Lenard Home." (Doc. #126). Moreover, there is no indication on the docket that defendant "John J. Cuevas" has been served.

On August 5, 2021, the Court issued an Order directing the New York Attorney General's Office ("AGO"), which has appeared as defense counsel on behalf of each of the served defendants, to state whether it would accept service on behalf of defendants "Cuevas" and "Home." (Doc. #129). In his August 10, 2021, response, defense counsel informed the Court—for the first time since the Second Amended Complaint was filed in February 2021—that defendants "Home" and "Cuevas" were incorrectly named in the Second Amended Complaint. (Doc. #130). According to defense counsel, the correct names of these two defendants are "Doris Cuevas" and "Jill Lenard-Horne." (*Id.*). Defense counsel also stated the AGO would not accept service on behalf of these defendants until proper summons had been issued and until the AGO had received all necessary paperwork from the U.S. Marshals Service.

Accordingly, to allow plaintiff to effect service on defendants Jill Lenard-Horne and Doris Cuevas, the Court extends plaintiff's time to serve these defendants to **October 11, 2021**. If the Second Amended Complaint is not served within that time, plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012).

Moreover, the Clerk of Court is instructed to issue summons as to defendants Doris Cuevas and Jill Lenard-Horne, and to deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants. The Clerk of Court is instructed to attach to the summons the U.S. Marshals Service Process and the Return Form ("USM-285 form") for each of these defendants. The service addresses for these defendants are appended to this Order.

In addition, all defendants' time to answer, move, or otherwise respond to the Second Amended Complaint is extended to **October 25, 2021**.

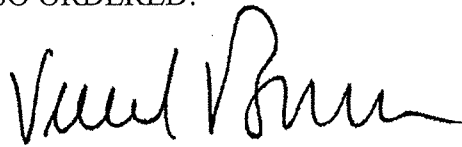
### CONCLUSION

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

The Clerk is directed to terminate defendants “John J. Cuevas” and “John Lenard Home” from the docket, and to add defendants “Doris Cuevas” and “Jill Lenard-Horne” to the docket.

Dated: August 11, 2021  
White Plains, New York

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

VINCENT L. BRICCETTI  
United States District Judge

**DEFENDANTS AND SERVICE ADDRESSES**

1. Doris Cuevas  
Peekskill Area Office,  
201 South James Street, Basement Level  
Peekskill, NY 10566
2. Jill Lenard-Horne  
New York State Department of Corrections and Community Supervision  
Harriman State Campus, Building 2  
1220 Washington Ave.  
Albany, NY 12226